

## **REMARKS**

Claims 1-46 are now pending in the application. The Examiner is respectfully requested to enter the amendment, and reconsider the rejections in view of the remarks.

## **REJECTION UNDER 35 U.S.C. § 103**

Claims 1-46 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Torma (U.S. Pat. No. 5,365,425) in view of Lockwood (U.S. Pat. No. 5,845,254). This rejection is respectfully traversed.

### **Claim 1**

At the outset, the Applicant notes that Claim 1 has been rewritten to include the features of claim 46. Claim 46 depends from claim 1, and states that information on the average cost per service episode is periodically distributed to the health service provider.

In rejecting claim 46, the Final Office Action states that Lockwood discloses the step of periodically distributing information on the average cost per service episode to the provider, and refers the Applicant to Lockwood, Col. 13, lines 30-39, which reads:

"In instances where there has been a budgetary overrun and the quality performance percentage associated with treating the selected condition (from step 210) is below the industry standard, this fact is signaled to the network administrator through workstation 90. The administrator may then take corrective action by, for example instructing the providers in the network to schedule and perform further procedures so as to improve the quality performance percentage of the network as a whole for the selected condition".

The applicant notes that Lockwood Lockwood does not teach periodically distributing information on average cost per episode to the health service provider. Rather, Lockwood only teaches the communication of quality performance percentages to an administrator for the purpose of improving the quality performance percentage.

The Applicant submits that this subject matter in claim 46 was not properly rejected in the Office Action, since Lockwood does not disclose periodically distributing an average cost per service episode to a health care provider, and the Final Office Action does not clearly state the reasons in support of the rejection of claim 46. MPEP 706.07.

At a minimum, the present amendment to claim 1 to include the subject matter of claim 46 should be entered, because it simplifies the issues for appeal and places the application in better form for appeal. The Applicant further submits that the subject matter of the amendment distinguishes claim 1 over Lockwood, since Lockwood does not teach periodically distributing an average cost per service episode to a health care provider. Thus, the Applicant submits that claim 1 as amended is also allowable.

#### Claims 18 and 34

With regard to claims 18 and 34, these claims recite a method that includes sharing with a physician group a portion of the cost savings resulting from that group's reduction in the cost episode of patient care. Neither Torma nor Lockwood teach or suggest sharing a portion of cost savings resulting from a reduction in cost per service with a physician group, as an incentive for providing more efficient services. As such, the Applicant submits that independent claims 18 and 34 are also distinguished over the cited references, and are allowable for at least these reasons.

#### Claims 2-17, 19-33 and 35-46

With regard to claims 2-17, 19-33 and 35-46, these claims ultimately depend from independent base claims 1, 18 or 34, which the Applicants believe to be allowable in view of the above remarks. As such, the Applicant submits that claims 2-17, 19-33 and 35-46, by virtue of their dependence from claims 1, 18 or 34, are also allowable for at least these reasons.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner enter the amendment for purposes of appeal, or reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (314) 726-7500.

Respectfully submitted,

Dated: 1-10-2007

By: Kevin Pumm  
Kevin Pumm,  
Reg. No. 49,046

HARNESS, DICKEY & PIERCE, P.L.C.  
7700 Bonhomme, Suite 400  
St. Louis, Missouri 63105  
(314) 726-7500

*Filed mailed on*  
*11/13/06*

*1/23/07*